



STATE OF WASHINGTON
DEPARTMENT OF ECOLOGY

PO Box 47600 • Olympia, WA 98504-7600 • 360-407-6000
TTY 711 or 800-833-6388 (for the speech or hearing impaired)

March 16, 2006

REGISTERED MAIL

Don Morehouse
Washington State Department of Transportation
North Central Region
P.O. Box 98
Wenatchee, WA 98807-0098

RE: Water Quality Certification Order No. 3124 and for Corps Public Notice No. 200501381, to restore fish passage to Beaver and Fraser creeks on SR 20 near Twisp, Okanogan County, Washington

Dear Mr. Morehouse:

On December 8, 2005 the Washington State Department of Transportation, submitted a Joint Aquatic Resource Permit Application (JARPA) to the Department of Ecology (Ecology) for a Section 401 Water Quality Certification (401 Certification) under the federal Clean Water Act for the proposed SR 20 Twisp East Fish Passage Project. The project proposes to replace two culverts and slightly realign the stream channels to correct the right angle entrance into the culvert at Beaver creek and at the outlet end of the culvert to correct the right angle exit at Fraser creek. Logs will be anchored at the inlet and outlet ends to prevent erosion without placing large rock in the creek. Rock weirs will be constructed in both new culverts for grade control. Bypass systems will be used at both locations so construction can be performed in the dry. Ecology issued a public notice on February 24, 2006 for the proposed project.

On behalf of the State of Washington, Ecology certifies that the work described in the JARPA and the public notice complies with applicable provisions of Sections 301, 302, 303, 306 and 307 of the Clean Water Act, as amended, and applicable state laws. This certification is subject to the conditions contained in the enclosed Order.



Don Morehouse
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If you have any questions, please contact Kerry Carroll, Ecology's Federal Project Coordinator for this project at 360-407-7503 or via e-mail at kstr461@ecy.wa.gov. The enclosed Order may be appealed by following the procedures described in the Order.

Sincerely,

A handwritten signature in dark ink, appearing to read 'Brenden', with a long horizontal stroke extending to the right.

Brenden McFarland, Section Manager
Environmental Review and Transportation Section
Shorelands and Environmental Assistance Program

Enclosure

cc: Rebecca McAndrew – Corps of Engineers

e-cc: Penny Keys – HQ
Loree' Randall – HQ
Ray Latham - WQ

IN THE MATTER OF GRANTING A)	ORDER # 3124
WATER QUALITY)	Corps Reference No. 200501381
CERTIFICATION TO)	Restore fish passage by replacing a culvert and
Washington State Department of)	slightly realigning the channel in Beaver and
Transportation)	Fraser Creeks located in Okanogan County,
in accordance with 33 U.S.C. 1341)	Washington.
(FWPCA § 401), RCW 90.48.120, RCW)	
90.48.260 and Chapter 173-201A WAC)	
)	

TO: Don Morehouse
Washington State Department of Transportation
North Central Region
P.O. Box 98
Wenatchee, WA 98807-0098

On December 8, 2005 Washington State Department of Transportation submitted a Joint Aquatic Resource Permit Application (JARPA) to the Department of Ecology (Ecology) requesting a Section 401 Water Quality Certification. A public notice regarding the request was distributed by the Department of Ecology for the above-referenced project pursuant to the provisions of Chapter 173-225 WAC on February 24, 2006.

The proposed project is located in WRIA 48 on SR 20 at milepost 205.8 and 206.9, Section 23.14, Township 33N, Range 22E in Okanogan County. The project entails culvert replacement and slight realignment of both Fraser and Beaver Creeks to restore fish passage.

AUTHORITIES:

In exercising authority under 33 U.S.C. § 1341, 16 U.S.C. § 1456, RCW 90.48.120, and RCW 90.48.260, Ecology has examined this application pursuant to the following:

1. Conformance with applicable water quality-based, technology-based, and toxic or pretreatment effluent limitations as provided under 33 U.S.C. §1311, 1312, 1313, 1316, and 1317 (FWPCA § 301, 303, 306 and 307);
2. Conformance with the state water quality standards contained in Chapter 173-201A WAC and authorized by 33 U.S.C. §1313 and by Chapter 90.48 RCW, and with other applicable state laws; and
3. Conformance with the provision of using all known, available and reasonable methods to prevent and control pollution of state waters as required by RCW 90.48.010.

WATER QUALITY CERTIFICATION CONDITIONS:

Through issuance of this Order, Ecology certifies that it has reasonable assurance that the activity as proposed and conditioned will be conducted in a manner that will not violate applicable water quality standards and other appropriate requirements of state law. In view of the foregoing and in accordance with 33 U.S.C. §1341, RCW 90.48.120, RCW 90.48.260 Chapter 173-200 WAC and Chapter 173-201A WAC, water quality certification is granted to the Applicant subject to the conditions within this Order.

Certification of this proposal does not authorize the Applicant to exceed applicable state water quality standards (Chapter 173-201A WAC), ground water standards (Chapter 173-200 WAC) or sediment quality standards (Chapter 173-204 WAC). Furthermore, nothing in this certification shall absolve the Applicant from liability for contamination and any subsequent cleanup of surface waters, ground waters or sediments occurring as a result of project construction or operations.

A. General Conditions:

1. For purposes of this Order, the term "Applicant" shall mean Washington State Department of Transportation, and its agents, assignees and contractors.
2. For purposes of this Order, all submittals required by its conditions shall be sent to Ecology's HQ, Attn: Federal Project Coordinator, P.O. Box 47600, WA 98504-7600. Any submittals shall reference Order No. 3124 and Corps No. 200501381.
3. Work authorized by this Order is limited to the work described in the JARPA received by Ecology on December 8, 2005. The Applicant will be out of compliance with this Order and must reapply with an updated application if the information contained in the JARPA is voided by subsequent changes to the project not authorized by this Order.
4. Within 30 days of receipt of an updated JARPA Ecology will determine if the revised project requires a new water quality certification and public notice or if a modification to this Order is required.
5. This Order does not exempt, and is provisional upon compliance with other statutes and codes administered by federal, state, and local agencies.
6. Copies of this Order shall be kept on the job site and readily available for reference by Ecology personnel, the construction superintendent, construction managers and lead workers, and state and local government inspectors.

7. The Applicant shall provide access to the project site and all mitigation sites upon request by Ecology personnel for site inspections, monitoring, necessary data collection, and/or to ensure that conditions of this Order are being met.
8. Nothing in this Order waives Ecology's authority to issue additional orders if Ecology determines that further actions are necessary to implement the water quality laws of the state. Further, Ecology retains continuing jurisdiction to make modifications hereto through supplemental order, if additional impacts due to project construction or operation are identified (e.g., violations of water quality standards, downstream erosion, etc.), or if additional conditions are necessary to further protect water quality.
9. The Applicant shall ensure that all appropriate Supervisors, Project Engineer(s), Contractor(s) and Project Inspector(s) at the project site have read and understand relevant conditions of this Order and all permits, approvals, and documents referenced in this Order. The Applicant shall provide to Ecology a signed statement from each Project Engineer, Contractor, Inspector and appropriate Supervisors that they have read and understand the conditions of this Order and the referenced permits, plans, documents and approvals. These statements shall be provided to Ecology on the form provided (attachment A) no less than seven (7) days before construction begins at the project site. The Applicant shall also provide a signed statement to Ecology from each new Supervisor, Project Engineer, Contractor or Inspector hired or assigned after the project begins within seven (7) days of hiring.
10. This Order does not authorize direct, indirect, permanent, or temporary impacts to waters of the state or related aquatic resources, except as specifically provided for in conditions of this Order.
11. Any person who fails to comply with any provision of this Order shall be liable for a penalty of up to ten thousand dollars (\$10,000.00) per violation for each day of continuing noncompliance.

B. Water Quality and Monitoring Conditions

Certification of this proposal does not authorize the Applicant to exceed applicable state water quality standards (173-201A WAC), ground water standards (173-200 WAC) or sediment quality standards (Chapter 173-204 WAC), except as modified by this order.

1. Fraser and Beaver Creeks are tributaries to the Methow River which is classified as a Class A waterbody in this location. The class A water quality standards of 173-201A-030(2) apply, except as specifically modified by this order.

2. Consistent with WAC 173-201A-110, this order authorizes a short term modification to the turbidity standards for Class A waters by granting a temporary mixing zone where turbidity criteria may be exceeded. The short term modification only applies to the bypass of Fraser Creek and the re-introduction of Fraser and Beaver Creeks into the newly constructed channels after culvert replacement and stream realignment work is complete.
3. The mixing zone distance granted for turbidity during bypass of Fraser Creek and re-introduction of Fraser and Beaver Creeks into the new channel is 1,000 feet from the end of the new channel or culvert, whichever is furthest downstream.
4. The short term modification of Water Quality Standards for turbidity is granted for a total of one (1) day for bypass work on Fraser Creek and one (1) day each for re-introduction of Fraser and Beaver Creeks into the new channel during the work window specified in the Hydraulic Project Approval (HPA).
5. The Applicant shall submit a Water Quality Monitoring and Protection Plan (Plan) to the Federal Project Coordinator at least 20 days prior to beginning construction, for review and approval. In-water work is not authorized to begin until approval is received.
 - a. Water Quality monitoring for turbidity shall be conducted during the bypass of Fraser Creek and the re-introduction of Fraser and Beaver Creeks into the new channel.
 - b. After stream bypass and/or re-introduction, if monitoring results show that turbidity levels exceed Water Quality Standards at the end of the previous workday, water quality monitoring for turbidity shall be resumed at the beginning of the next day and continued until levels are within Water Quality Standards.
 - c. The Plan shall include the name(s) and phone number(s) of the Pollution Control inspector and the person responsible for onsite monitoring and reporting.
 - d. Prepare and submit a map as part of the Plan with numbered or named sampling locations associated with the in-water activities that require monitoring.
 - e. A background sample shall be collected at the beginning of each sample event.
 - f. Any changes to the Plan must be approved in writing by Ecology.
6. Monitoring results shall be submitted within seven (7) days of project completion to the Federal Project Coordinator, per condition A.2.
7. Mitigation and/or additional monitoring may be required if water quality standards are not met.

C. Stormwater

1. Sediment control devices (filter or silt fences, hay bales, etc.) and other BMPs intended to trap sediment on-site shall be in place before starting project construction and shall be maintained throughout construction.

2. Temporary impacts to vegetation shall be limited to the amount necessary for construction. Bare soils in these areas shall be adequately protected from erosion for the duration of the project and stabilized within seven (7) days after project completion.
3. Erosion control devices (plastic sheets, straw, fiber mats, etc.) suitable to prevent exceedence of state water quality standards shall be in place and maintained throughout construction in order to prevent erosion. The Applicant shall stabilize all exposed and unworked soils by applying effective BMPs that protect the soil from the erosive forces. The Applicant shall stabilize the disturbed soils so that from October 1 through June 30 no soils remain exposed and unworked for more than five (5) days; and from July 1 through September 30, no soils shall remain exposed and unworked for more than ten (10) days.
4. Periodic inspection and maintenance of all erosion control structures shall be conducted no less than every seven (7) days from the start of the project for site stabilization. Additional inspections shall be conducted prior to and after expected rainfall events to ensure erosion control measures are in working condition. Any damaged structures shall be immediately repaired. If the inspection reveals that additional measures are needed to control stormwater and erosion, they shall be implemented immediately.

D. Construction Conditions

1. Work in or near waters of the state shall be done in a manner that minimizes turbidity, erosion, and other water quality impacts.
2. No petroleum products, fresh concrete, lime or concrete, chemicals, or other toxic or deleterious materials shall be allowed to enter waters of the state.
3. All construction debris, excess sediment, and other waste material shall be properly managed and disposed of in an upland disposal site approved by the appropriate regulatory authority.
4. Turbid de-watering water associated with in-water work shall not be discharged directly to waters of the state. Turbid de-watering water shall be routed to an upland area for on-site settling or off-site disposal. The discharge from the upland areas shall meet the water quality criteria at the point of discharge. The Applicant shall notify Ecology's Federal Project Coordinator before the use of off-site disposal methods.
5. Clean de-watering water associated with in-water work that has been tested and confirmed to meet water quality standards may be discharged directly to waters of the state. The discharge outfall method shall be designed and operated so as not to cause erosion or scour in the stream channel, banks, or vegetation.

6. Staging areas will be located a minimum of 50 feet and, where practical, 200 feet, from waters of the state, including wetlands. If a staging area must be located within 50 feet of a water of the state, then the Applicant shall provide a written explanation and obtain approval from Ecology's Federal Project Coordinator before placement of the staging area in the set back area.
7. Equipment used during construction shall be serviced, fueled, and maintained on upland areas in order to prevent contamination of surface waters. All fueling areas shall be provided with adequate spill containment. Fueling of equipment and vehicles shall not occur within 50 feet of state waters and wetlands.
8. Equipment used for this project shall be free of external petroleum-based products while used around the waters of the state, including wetlands. Accumulation of soils or debris shall be removed from the drive mechanisms (wheels, tires, tracks, etc.) and the undercarriage of equipment prior to its use around waters of the state, including wetlands.
9. Fuel hoses, oil drums, oil or fuel transfer valves and fittings, etc., shall be checked regularly for drips or leaks, and shall be maintained and stored properly to prevent spills into state waters.
10. Wash water containing oils, grease, or other hazardous materials resulting from wash down of equipment or working areas shall not be discharged into state waters. The applicant shall set up a designated area for washing down equipment.
11. No cleaning solvents or chemicals used for tool or equipment cleaning may be discharged to the ground or to waters of the state.
12. A separate area shall be set aside, which does not have any possibility of draining to surface waters, for the wash-out of concrete delivery trucks, pumping equipment, and tools.
13. All culvert work shall be conducted in the dry or in isolation from stream flow by installing a bypass flume or culvert, or by pumping the stream flow around the work area. The stream diversion system shall be designed and operated so as to not cause erosion or scour in the stream channel or on the banks of the waterbody in which work is being conducted.
14. Prior to returning stream flow to the de-watered work area, all bank protection shall be completed.

15. Temporary sediment traps shall be cleaned out and the settled sediments removed from the stream channel before removing any stream diversion system and returning the flow of the stream to its natural channel. Settled sediments shall not be allowed to enter waters of the state, including wetlands, due to water or runoff flows that may occur during or after construction is completed.
16. Reintroduction of water to the channel shall be done gradually and at a rate not higher than the normal stream flow in order to minimize the mobilization of sediments and fines into downstream waters.
17. Upon completion of the project, all materials used in the temporary bypass, or other method of work area isolation, shall be removed from the site and placed in an area approved by the appropriate regulatory authority. The work area shall then be returned to pre-project or improved conditions.
18. Culverts shall be installed and maintained to avoid inlet scouring and to prevent erosion of stream banks downstream of the project.
19. Fill associated with culvert installation shall be protected from erosion to the 100-year peak flow.
20. Disturbance of the streambed and banks shall be limited to that necessary to replace the culvert and to construct any required channel modification associated with it. Affected streambed and bank areas outside the culvert shall be restored to pre-project or improved conditions following installation of the culvert. All disturbed stream bank areas shall be protected from temporary erosion using BMPs until stabilized by vegetation. At the end of each in-water work window for the construction season, all disturbed areas from culvert replacement work shall be planted with native species within the next appropriate planting season.
21. New channel construction shall occur in isolation from stream flow and shall be done in a manner that minimizes temporary impacts to wetlands.
22. Before water is diverted into the permanent new channel, all channel stabilization work and materials shall be in place.
23. Spoils from the new channel shall be placed in an approved upland site. This material, if appropriate, may be used to fill the old channel once the diversion has been completed.

E. Timing Requirements

1. This Order is valid until all requirements in this document have been met.
2. In-water work is subject to a fishery closure window determined by Washington Department of Fish and Wildlife's Hydraulic Project Approval (HPA). All in-water work shall be completed by the work window identified in the most current HPA issued for this project.

F. Notification Requirements

1. Notification shall be made for the following activities, per condition A.2:
 - a. at least ten (10) days prior to the pre-construction meeting,
 - b. at least seven (7) days prior to the onset of any work authorized by this Order,
 - c. within seven (7) days after the completion of the project.
 - d. immediately following a violation, or potential to violate state water quality standards or any condition of this order.

G. Emergency/Contingency Measures:

1. The Applicant shall develop a spill prevention and containment plan for this project and shall have spill cleanup materials available on site.
2. Any work that is out of compliance with the provisions of this Order, or producing conditions causing distressed or dying fish, or any discharge of oil, fuel, or chemicals into state waters, or onto land with a potential for entry into state waters, is prohibited. If these occur, the Applicant shall immediately take the following actions:
 - a. Cease operations.
 - b. Assess the cause of the water quality problem and take appropriate measures to correct the problem and/or prevent further environmental damage.
 - c. In the event of finding distressed or dying fish, the Applicant shall collect fish specimens and water samples in the affected area and, within the first hour of such conditions, make every effort to have the water samples analyzed for dissolved oxygen and total sulfides. Ecology may require such sampling and analyses before allowing the work to resume.

- d. In the event of a discharge of oil, fuel, or chemicals into state waters, or onto land with a potential for entry into state waters, containment and cleanup efforts shall begin immediately and be completed as soon as possible, taking precedence over normal work. Cleanup shall include proper disposal of any spilled material and used cleanup materials.
 - e. Immediately notify Ecology's Central Regional Spill Response Office at 509-575-2490, Department of Fish and Wildlife and Ecology's Federal Project Manager, per condition A.2, of the nature of the problem, any actions taken to correct the problem, and any proposed changes in operations to prevent further problems.
3. If at any time during work the proponent finds buried chemical containers, such as drums, or any unusual conditions indicating disposal of chemicals, the proponent shall immediately notify Ecology's Central Regional Spill Response Office at 509-575-2490.
 4. A full-time Pollution Control inspector shall be on-site at all times while construction activities are occurring that need monitoring or involve working in environmentally sensitive areas and on-call and readily accessible to the site during all other periods of construction activities.

H. Appeal Process:

You have the right to appeal this Order to the Pollution Control Hearings Board. Pursuant to chapter 43.21B RCW, your appeal must be filed with the Pollution Control Hearings Board, and served on the Department of Ecology within thirty (30) days of the date of your receipt of this document.

To appeal this Order, your notice of appeal must contain a copy of the Ecology Order you are appealing.

Your appeal must be filed with:

The Pollution Control Hearings Board
4224 - 6th Avenue SE, Rowe Six, Bldg. 2
P.O. Box 40903
Lacey, Washington 98504-0903

Your appeal must also be served on:

The Department of Ecology
Appeals Coordinator
P.O. Box 47608
Olympia, Washington 98504-7608.

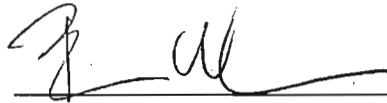
In addition, please send a copy of your appeal to:

Federal Permit Appeals Coordinator
Department of Ecology
P.O. Box 47600
Olympia, Washington 98504-7600

For additional information: Environmental Hearings Office Website: <http://www.eho.wa.gov>

Your appeal alone will not stay the effectiveness of this Order. Stay requests must be submitted in accordance with RCW 43.21B.320. These procedures are consistent with Ch. 43.21B RCW.

Dated March 16, 2006 at Olympia, Washington.



Brenden McFarland, Section Manager
Shorelands and Environmental Assistance Program
Department of Ecology
State of Washington

Water Quality Certification 3124 Statement of Understanding

I, _____, state that, I will be involved as a WSDOT employee or an agent or contractor for Washington State Department of Transportation in the SR 20 Twisp East Fish Passage Project in Okanogan County, Washington. I further state that I have read and understand the relevant conditions of Washington Department of Ecology **Water Quality Certification Order #3124** and the applicable permits and approvals referenced therein which pertain to the project-related work for which I am responsible.

Signature

Date

Company

Phone number

Address

City, State, and Zip Code